

63J-1-101. Title.

- (1) This title is known as "Budgeting."
- (2) This chapter is known as the "Budgetary Procedures Act."

Renumbered and Amended by Chapter 382, 2008 General Session

63J-1-102. Definitions.

- (1) "Dedicated credits" means collections by an agency that are deposited directly into an account for expenditure on a separate line item and program.
- (2) "Federal revenues" means collections by an agency from a federal source that are deposited into an account for expenditure on a separate line item and program.
- (3) "Fixed collections" means collections that are:
 - (a) fixed at a specific amount by law or by an appropriation act; and
 - (b) required to be deposited into a separate line item and program.
- (4) "Free revenue" includes:
 - (a) collections that are required by law to be deposited in:
 - (i) the General Fund;
 - (ii) the Education Fund;
 - (iii) the Uniform School Fund; or
 - (iv) the Transportation Fund;
 - (b) collections that are not otherwise designated by law;
 - (c) collections that are not externally restricted; and
 - (d) collections that are not included in an approved work program.
- (5) "Major revenue types" means:
 - (a) free revenue;
 - (b) restricted revenue;
 - (c) dedicated credits; and
 - (d) fixed collections.
- (6) "Restricted revenue" means collections that are:
 - (a) deposited, by law, into a separate fund, subfund, or account; and
 - (b) designated for a specific program or purpose.

Enacted by Chapter 183, 2009 General Session

Enacted by Chapter 368, 2009 General Session

63J-1-103. Agency exempt from act.

The Utah Housing Corporation is exempt from this act.

Renumbered and Amended by Chapter 382, 2008 General Session

63J-1-104. Revenue types -- Disposition of funds collected or credited by a state agency.

- (1) (a) The Division of Finance shall:
 - (i) account for revenues in accordance with generally accepted accounting principles; and

- (ii) use the major revenue types in internal accounting.
- (b) Each agency shall:
 - (i) use the major revenue types to account for revenues;
 - (ii) deposit revenues and other public funds received by them by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
 - (iii) expend revenues and public funds as required by this chapter.
- (2) (a) Each agency shall deposit its free revenues into the appropriate fund.
- (b) An agency may expend free revenues up to the amount specifically appropriated by the Legislature.
- (c) Any free revenue funds appropriated by the Legislature to an agency that remain unexpended at the end of the fiscal year lapse to the source fund unless the Legislature provides by law that those funds are nonlapsing.
- (3) (a) Each agency shall deposit its restricted revenues into the applicable restricted account or fund.
- (b) Revenues in a restricted account or fund do not lapse to another account or fund unless otherwise specifically provided for by law or legislative appropriation.
- (c) The Legislature may appropriate restricted revenues from a restricted account or fund for the specific purpose or program designated by law.
- (d) If the fund equity of a restricted account or fund is insufficient to provide the accounts appropriated from it by the Legislature, the Division of Finance may reduce the appropriation to a level that ensures that the fund equity is not less than zero.
- (e) Any restricted revenues appropriated by the Legislature to an agency that remain unexpended at the end of the fiscal year lapse to the applicable restricted account or fund unless the Legislature provides by law that those appropriations, or the program or line item financed by those appropriations, are nonlapsing.
- (4) (a) An agency may expend dedicated credits for any purpose within the program or line item.
- (b) (i) Except as provided in Subsection (4)(b)(ii), an agency may not expend dedicated credits in excess of the amount appropriated as dedicated credits by the Legislature.
- (ii) In order to expend dedicated credits in excess of the amount appropriated as dedicated credits by the Legislature, the following procedure shall be followed:
 - (A) The agency seeking to make the excess expenditure shall:
 - (I) develop a new work program that:
 - (Aa) consists of the currently approved work program and the excess expenditure sought to be made; and
 - (Bb) complies with the requirements of Section 63J-2-202;
 - (II) prepare a written justification for the new work program that sets forth the purpose and necessity of the excess expenditure; and
 - (III) submit the new work program and the written justification for the new work program to the Division of Finance.
 - (B) The Division of Finance shall process the new work program with written justification and make this information available to the Governor's Office of Management and Budget and the legislative fiscal analyst.

(iii) An expenditure of dedicated credits in excess of amounts appropriated as dedicated credits by the Legislature may not be used to permanently increase personnel within the agency unless:

(A) the increase is approved by the Legislature; or

(B) the money is deposited as a dedicated credit in a line item covering tuition or federal vocational funds at an institution of higher education.

(c) (i) All excess dedicated credits lapse to the appropriate fund at the end of the fiscal year unless the Legislature has designated the entire program or line item that is partially or fully funded from dedicated credits as nonlapsing.

(ii) The Division of Finance shall determine the appropriate fund into which the dedicated credits lapse.

(5) (a) The Legislature may establish by law the maximum amount of fixed collections that an agency may expend.

(b) If an agency receives less than the maximum amount of expendable fixed collections established by law, the agency's authority to expend is limited to the amount of fixed collections that it receives.

(c) If an agency receives fixed collections greater than the maximum amount of expendable fixed collections established by law, those excess amounts lapse to the General Fund, the Education Fund, the Transportation Fund, or the Transportation Investment Fund of 2005 as designated by the director of the Division of Finance at the end of the fiscal year.

(6) Unless otherwise specifically provided by law, when an agency has a program or line item that is funded by more than one major revenue type:

(a) the agency shall expend its dedicated credits and fixed collections first; and

(b) if the program or line item includes both free revenue and restricted revenue, an agency shall expend those revenues based upon a proration of the amounts appropriated from each of those major revenue types.

Amended by Chapter 310, 2013 General Session

63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

(i) a proposed budget for the ensuing fiscal year;

(ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and

(iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

- (b) The proposed budget shall include:
 - (i) a projection of:
 - (A) estimated revenues by major tax type;
 - (B) 15-year trends for each major tax type;
 - (C) estimated receipts of federal funds; and
 - (D) appropriations for the next fiscal year;
 - (ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;
 - (iii) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;
 - (iv) an itemized estimate of the proposed changes to appropriations for:
 - (A) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;
 - (B) the Executive Department;
 - (C) the Judicial Department as certified to the governor by the state court administrator;
 - (D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and
 - (E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;
 - (v) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;
 - (vi) deficits or anticipated deficits;
 - (vii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the State Building Board as required by Subsection 63A-5-103(2);
 - (viii) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and
 - (ix) information detailing certain fee increases as required by Section 63J-1-504.
- (3) For the purpose of preparing and reporting the proposed budget:
 - (a) The governor shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations.
 - (b) The governor may require the persons and entities subject to Subsection (3)(a) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.
 - (c) The governor may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for

state appropriations to attend budget meetings.

(4) (a) The Governor's Office of Management and Budget shall provide to the Office of Legislative Fiscal Analyst, as soon as practicable, but no later than November 15 of each year, data, analysis, or requests used in preparing the governor's budget recommendations, notwithstanding the restrictions imposed on such recommendations by available revenue.

(b) The information under Subsection (4)(a) shall include:

(i) actual revenues and expenditures for the fiscal year ending the previous June 30;

(ii) estimated or authorized revenues and expenditures for the current fiscal year;

(iii) requested revenues and expenditures for the next fiscal year;

(iv) detailed explanations of any differences between the amounts appropriated by the Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and (iii);

(v) a statement of agency and program objectives, effectiveness measures, and program size indicators; and

(vi) other budgetary information required by the Legislature in statute.

(c) The budget information under Subsection (4)(a) shall cover:

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

(ii) any new appropriation, fund, or account items requested for the next fiscal year.

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of Management and Budget.

(5) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(7) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(8) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

Amended by Chapter 320, 2014 General Session

Amended by Chapter 344, 2014 General Session

Amended by Chapter 430, 2014 General Session

63J-1-201.5. Financial statement to be submitted annually.

The governor shall submit an audited financial statement no later than December 1 of each year that shows:

- (1) the revenues and expenditures for the last fiscal year;
- (2) payment and discharge of the principal and interest of the indebtedness of the state;
- (3) the current assets, liabilities, and reserves, surplus or deficit, and the debts and funds of the state;
- (4) an estimate of the state's financial condition as of the beginning and the end of the period covered by the budget; and
- (5) a complete analysis of lease with an option to purchase arrangements entered into by state agencies.

Enacted by Chapter 378, 2011 General Session

63J-1-205. Revenue volatility report.

(1) Beginning in 2011 and continuing every three years after 2011, the Legislative Fiscal Analyst and the Governor's Office of Management and Budget shall submit a joint revenue volatility report to the Executive Appropriations Committee prior to the committee's December meeting.

(2) The Legislative Fiscal Analyst and the Governor's Office of Management and Budget shall ensure that the report:

- (a) discusses the tax base and the tax revenue volatility of the revenue streams that provide the source of funding for the state budget;
- (b) considers federal funding included in the state budget and any projected changes in the amount or value of federal funding;
- (c) identifies the balances in the General Fund Budget Reserve Account and the Education Fund Budget Reserve Account;
- (d) analyzes the adequacy of the balances in the General Fund Budget Reserve Account and the Education Fund Budget Reserve Account in relation to the volatility of the revenue streams and the risk of a reduction in the amount or value of federal funding;
- (e) recommends changes to the deposit amounts or transfer limits established in Sections 63J-1-312 and 63J-1-313, if the Legislative Fiscal Analyst and Governor's Office of Management and Budget consider it appropriate to recommend changes; and
- (f) presents options for a deposit mechanism linked to one or more tax sources on the basis of each tax source's observed volatility, including:
 - (i) an analysis of how the options would have performed historically within the

state;

- (ii) an analysis of how the options will perform based on the most recent revenue forecast; and
- (iii) recommendations for deposit mechanisms considered likely to meet the budget reserve account targets established in Sections 63J-1-312 and 63J-1-313.

Amended by Chapter 430, 2014 General Session

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1) As used in this section, "work program" means a budget that contains revenues and expenditures for specific purposes or functions within an item of appropriation.

(2) (a) Except as provided in Subsection (2)(b), (3)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

- (i) the Legislature and its committees; and
- (ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(3) (a) Each appropriation item is to be expended subject to any schedule of programs and any restriction attached to the appropriation item, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, or division to any other department, agency, institution, or division.

(d) The money appropriated subject to a schedule or programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within an item of appropriation, the following procedure shall be followed:

(i) The department, agency, or institution seeking to make the transfer shall prepare:

(A) a new work program for the fiscal year involved that consists of the currently approved work program and the transfer sought to be made; and

(B) a written justification for the new work program that sets forth the purpose and necessity for the transfer.

(ii) The Division of Finance shall process the new work program with written justification and make this information available to the Governor's Office of Management and Budget and the legislative fiscal analyst.

(f) (i) Except as provided in Subsection (3)(f)(ii), money may not be transferred from one item of appropriation to any other item of appropriation.

(ii) The state superintendent may transfer money appropriated for the Minimum School Program between line items of appropriation in accordance with Section 53A-17a-105.

(g) (i) The procedures for transferring money between programs within an item of appropriation as provided by Subsection (3)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53A, Chapter 21, Public Education Capital Outlay Act.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (3)(g)(i) only as provided by Section 53A-17a-105.

Amended by Chapter 189, 2014 General Session

63J-1-207. Uniform School Fund -- Appropriations.

(1) Appropriations made from the General Fund to the Uniform School Fund to assist in financing the state's portion of the minimum school program, as provided by law, shall be conditioned upon available revenue.

(2) If revenues to the General Fund are not sufficient to permit transfers to the Uniform School Fund as provided by appropriation, the state fiscal officers shall withhold transfers from the General Fund to the Uniform School Fund during the fiscal period, as in their judgment the available revenues justify until:

(a) all other appropriations made by law have been provided for;

(b) any modifications to department and agency work programs have been made; and

(c) the governor has approved the transfer.

(3) Transfers from the General Fund to the Uniform School Fund shall be made at such times as required to equalize the property levy for each fiscal year.

Renumbered and Amended by Chapter 183, 2009 General Session

63J-1-208. Conditions on appropriations binding.

A condition that is attached to an item of appropriation that is not inconsistent with law is binding upon the recipient of the appropriation.

Renumbered and Amended by Chapter 183, 2009 General Session

63J-1-209. Director of finance to exercise accounting control -- Work programs -- Allotments and expenditures.

(1) The director of finance shall exercise accounting control over all state departments, institutions, and agencies other than the Legislature and legislative committees.

(2) (a) The director shall require the head of each department to submit, by May 15 of each year, a work program for the next fiscal year.

(b) The director may require any department to submit a work program for any other period.

(3) The work program shall include appropriations and all other funds from any source made available to the department for its operation and maintenance for the period and program authorized by the appropriation act.

(4) Subject to the requirements of Subsection 63J-1-206(3)(e), the Division of Finance shall, upon request from the governor, revise, alter, decrease, or change work programs.

(5) Notwithstanding the requirements of Title 63J, Chapter 2, Revenue Procedures and Control Act, the aggregate of the work program changes may not exceed the total appropriations or other funds from any source that are available to the department line item for the fiscal year in question.

(6) The Division of Finance shall transmit a copy of the changes, when approved by the governor, to:

(a) the head of the department concerned; and

(b) the legislative analyst.

(7) Upon request, review, and approval by the governor, the Division of Finance shall permit all expenditures to be made from the appropriations or other funds from any source on the basis of those work programs.

(8) The Division of Finance shall, through statistical sampling methods or other means, audit all claims against the state for which an appropriation has been made.

Renumbered and Amended by Chapter 183, 2009 General Session

Renumbered and Amended by Chapter 368, 2009 General Session

63J-1-210. Restrictions on agency expenditures of money -- Lobbyists.

(1) As used in this section:

(a) (i) "Agency" means:

(A) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state; or

(B) a school, a school district, or a charter school.

(ii) "Agency" includes the legislative branch, the judicial branch, the Board of Regents, the board of trustees of each higher education institution, or a higher education institution.

(b) "Contract lobbyist" means a person who is not an employee of an agency who is hired as an independent contractor by the agency to communicate with legislators or the governor for the purpose of influencing the passage, defeat, amendment, or postponement of a legislative action or an executive action.

(c) "Executive action" means action undertaken by the governor, including signing or vetoing legislation, and action undertaken by any official in the executive branch of state government.

(d) "Legislative action" means action undertaken by the Utah Legislature or any

part of it.

(2) An agency to which money is appropriated by the Legislature may not expend any money to pay a contract lobbyist.

(3) This section does not affect the provisions of Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

Amended by Chapter 323, 2011 General Session

Amended by Chapter 342, 2011 General Session

63J-1-211. Appropriating from restricted accounts.

(1) As used in this section, "operating deficit" means that estimated General Fund or Uniform School Fund revenues are less than budgeted for the current or next fiscal year.

(2) Notwithstanding any other statute that limits the Legislature's power to appropriate from a restricted account, if the Legislature determines that an operating deficit exists, unless prohibited by federal law or court order, the Legislature may, in eliminating the deficit, appropriate money from a restricted account into the General Fund.

Renumbered and Amended by Chapter 183, 2009 General Session

63J-1-212. Duplicate payment of claims prohibited.

No claim against the state, the payment of which is provided for, shall be duplicated, and the amount of any appropriation for the payment of any such claim shall be withheld if it is covered by any other appropriation.

Renumbered and Amended by Chapter 183, 2009 General Session

63J-1-213. Appropriations from special funds or accounts -- Transfer by proper official only.

Whenever appropriations are made from special funds, or a fund account, the transfer of money from those funds, or accounts, to the General Fund or any other fund for budgetary purposes shall be made by the proper state fiscal officer.

Renumbered and Amended by Chapter 183, 2009 General Session

63J-1-214. Warrants -- Not to be drawn until claim processed -- Redemption.

(1) No warrant to cover any claim against any appropriation or fund shall be drawn until such claim has been processed as provided by law.

(2) The state treasurer shall return all redeemed warrants to the state fiscal officer for purposes of reconciliation, post-audit and verification of the state treasurer's fund balances.

Renumbered and Amended by Chapter 183, 2009 General Session

63J-1-215. Cash funds -- Application for account -- Preference for purchasing card accounts -- Cash advances -- Revolving fund established by law excepted -- Elimination of cash funds.

(1) Before any new petty cash funds may be established, the commission, department, or agency requesting the fund or funds shall apply in writing to the Division of Finance and provide:

- (a) the reasons why the cash fund is needed;
- (b) the amount requested; and
- (c) the reasons why a purchasing card account is not sufficient to meet the needs of the commission, department, or agency.

(2) (a) The Division of Finance shall review the application and make a determination that:

- (i) no cash fund or purchasing card account should be established;
- (ii) a purchasing card account should be established; or
- (iii) a cash fund should be established using money in the state treasury.

(b) When making a determination under Subsection (2)(a), the Division of Finance shall recommend a purchasing card account in lieu of a cash fund unless there is significant evidence that a purchasing account is not sufficient to meet the needs of the commission, department, or agency.

(3) Revolving funds established by law are not subject to the provisions of this section.

(4) The Division of Finance is authorized to review and close cash funds if the division determines that a purchasing card account will adequately meet the needs of the commission, department, or agency.

Renumbered and Amended by Chapter 183, 2009 General Session
Renumbered and Amended by Chapter 368, 2009 General Session

63J-1-216. Allotment of funds to higher education.

(1) The state fiscal officer may permit advances to be made from allotments to state institutions of higher education in sufficient amounts to provide necessary working bank balances to facilitate an orderly management of institutional affairs.

(2) State institutions of higher education shall make reports, as required by the state fiscal officer, for the expenditure of funds included in any advances.

Enacted by Chapter 183, 2009 General Session

63J-1-217. Overexpenditure of budget by agency -- Prorating budget income shortfall.

(1) Expenditures of departments, agencies, and institutions of state government shall be kept within revenues available for such expenditures.

(2) (a) Line items of appropriation shall not be overexpended.

(b) Notwithstanding Subsection (2)(a), if an agency's line item is overexpended at the close of a fiscal year:

- (i) the director of the Division of Finance may make payments from the line item

to vendors for goods or services that were received on or before June 30; and
(ii) the director of the Division of Finance shall immediately reduce the agency's line item budget in the current year by the amount of the overexpenditure.

(c) Each agency with an overexpended line item shall:

(i) prepare a written report explaining the reasons for the overexpenditure; and

(ii) present the report to:

(A) the Board of Examiners as required by Section 63G-9-301; and

(B) the Office of the Legislative Fiscal Analyst.

(3) (a) As used in this Subsection (3):

(i) "Education Fund budget deficit" has the same meaning as in Section 63J-1-312; and

(ii) "General Fund budget deficit" has the same meaning as in Section 63J-1-312.

(b) If an Education Fund budget deficit or a General Fund budget deficit exists and the adopted estimated revenues were prepared in consensus with the Governor's Office of Management and Budget, the governor shall:

(i) direct state agencies to reduce commitments and expenditures by an amount proportionate to the amount of the deficiency; and

(ii) direct the Division of Finance to reduce allotments to institutions of higher education by an amount proportionate to the amount of the deficiency.

(c) The governor's directions under Subsection (3)(b) are rescinded when the Legislature rectifies the Education Fund budget deficit and the General Fund budget deficit.

(4) (a) A department may not receive an advance of funds that cannot be covered by anticipated revenue within the work program of the fiscal year, unless the governor allocates money from the governor's emergency appropriations.

(b) All allocations made from the governor's emergency appropriations shall be reported to the budget subcommittee of the Legislative Management Committee by notifying the Office of the Legislative Fiscal Analyst at least 15 days before the effective date of the allocation.

(c) Emergency appropriations shall be allocated only to support activities having existing legislative approval and appropriation, and may not be allocated to any activity or function rejected directly or indirectly by the Legislature.

Amended by Chapter 310, 2013 General Session

63J-1-218. Reduction in federal funds -- Agencies to reduce budgets.

(1) In any fiscal year in which federal grants to be received by state agencies, departments, divisions, or institutions are reduced below the level estimated in the appropriations acts for that year, the programs supported by those grants must be reduced commensurate with the amount of the federal reduction unless the Legislature appropriates state funds to offset the loss in federal funding.

(2) This program modification shall be reported to the Legislature through the Executive Appropriations Committee and the Office of the Legislative Fiscal Analyst.

Amended by Chapter 1, 2013 Special Session 2
Amended by Chapter 2, 2013 Special Session 2

63J-1-219. Definitions -- Federal receipts reporting requirements.

(1) As used in this section:

(a) (i) "Designated state agency" means the Department of Administrative Services, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Human Services, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Department of Technology Services, the Department of Transportation, the Department of Veterans' and Military Affairs, the Department of Workforce Services, the Labor Commission, the Office of Economic Development, the Public Service Commission, the State Board of Regents, the State Office of Education, the State Tax Commission, or the Utah National Guard.

(ii) "Designated state agency" does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.

(b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(c) "Single audit" is as defined in 31 U.S.C. Sec. 7501.

(2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or before October 31, prepare a report that:

(a) reports the aggregate value of federal receipts the designated state agency received for the preceding fiscal year;

(b) reports the aggregate amount of federal funds appropriated by the Legislature to the designated state agency for the preceding fiscal year;

(c) calculates the percentage of the designated state agency's total budget for the preceding fiscal year that constitutes federal receipts that the designated state agency received for that fiscal year; and

(d) develops plans for operating the designated state agency if there is a reduction of:

(i) 5% or more in the federal receipts that the designated state agency receives; and

(ii) 25% or more in the federal receipts that the designated state agency receives.

(3) (a) The report required by Subsection (2) that the Board of Regents prepares shall include the information required by Subsections (2)(a) through (c) for each state institution of higher education listed in Section 53B-2-101.

(b) The report required by Subsection (2) that the State Office of Education prepares shall include the information required by Subsections (2)(a) through (c) for each school district and each charter school within the public education system.

(4) A designated state agency that prepares a report in accordance with

Subsection (2) shall submit the report to the Division of Finance on or before November 1 of each year.

(5) (a) The Division of Finance shall, on or before November 30 of each year, prepare a report that:

(i) compiles and summarizes the reports the Division of Finance receives in accordance with Subsection (4); and

(ii) compares the aggregate value of federal receipts each designated state agency received for the previous fiscal year to the aggregate amount of federal funds appropriated by the Legislature to that designated state agency for that fiscal year.

(b) The Division of Finance shall, as part of the report required by Subsection (5)(a), compile a list of designated state agencies that do not submit a report as required by this section.

(6) The Division of Finance shall submit the report required by Subsection (5) to the Executive Appropriations Committee on or before December 1 of each year.

(7) Upon receipt of the report required by Subsection (5), the chairs of the Executive Appropriations Committee shall place the report on the agenda for review and consideration at the next Executive Appropriations Committee meeting.

(8) When considering the report required by Subsection (5), the Executive Appropriations Committee may elect to:

(a) recommend that the Legislature reduce or eliminate appropriations for a designated state agency;

(b) take no action; or

(c) take another action that a majority of the committee approves.

Amended by Chapter 214, 2013 General Session

63J-1-312. Establishing a General Fund Budget Reserve Account -- Providing for deposits and expenditures from the account -- Providing for interest generated by the account.

(1) As used in this section:

(a) "Education Fund budget deficit" means a situation where appropriations made by the Legislature from the Education Fund for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the Education Fund in that fiscal year.

(b) "General Fund appropriations" means the sum of the spending authority for a fiscal year that is:

(i) granted by the Legislature in all appropriation acts and bills; and

(ii) identified as coming from the General Fund.

(c) "General Fund budget deficit" means a situation where General Fund appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

(d) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations

Committee of the Legislature.

(e) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(2) There is created within the General Fund a restricted account to be known as the General Fund Budget Reserve Account, which is designated to receive the legislative appropriations and the surplus revenue required to be deposited into the account by this section.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in conjunction with the completion of the annual audit by the state auditor, determines that there is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account.

(ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account would cause the balance in the account to exceed 8% of General Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 8% of General Fund appropriations for the fiscal year in which the General Fund revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(a):

(A) after making the transfer of General Fund revenue surplus to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315;

(B) before transferring from the General Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(C) excluding any direct legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

(b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if a General Fund revenue surplus exists and if, within the last 10 years, the Legislature has appropriated any money from the General Fund Budget Reserve Account that has not been replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if any, and transfers from the General Fund revenue surplus under this Subsection (3)(b) have replaced the appropriations from the account.

(ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to exceed 8% of General Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 8% of General Fund appropriations for the fiscal year in which the revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(b):

(A) after making the transfer of General Fund revenue surplus to the Medicaid

Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315;

(B) before transferring from the General Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(C) excluding any direct legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

(c) For appropriations made by the Legislature to the General Fund Budget Reserve Account, the Division of Finance shall treat those appropriations, unless otherwise specified in the appropriation, as replacement funds for appropriations made from the account if funds were appropriated from the General Fund Budget Reserve Account within the past 10 years and have not yet been replaced.

(4) The Legislature may appropriate money from the General Fund Budget Reserve Account only to:

(a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund budget deficit occurs;

(b) pay some or all of state settlement agreements approved under Title 63G, Chapter 10, State Settlement Agreements Act;

(c) pay retroactive tax refunds; or

(d) resolve an Education Fund budget deficit.

(5) Interest generated from investments of money in the General Fund Budget Reserve Account shall be deposited into the General Fund.

Amended by Chapter 141, 2012 General Session

63J-1-313. Establishing an Education Budget Reserve Account -- Providing for deposits and expenditures from the account -- Providing for interest generated by the account.

(1) As used in this section:

(a) "Education Fund appropriations" means the sum of the spending authority for a fiscal year that is:

(i) granted by the Legislature in all appropriation acts and bills; and

(ii) identified as coming from the Education Fund.

(b) "Education Fund budget deficit" means a situation where appropriations made by the Legislature from the Education Fund for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the Education Fund in that fiscal year.

(c) "Education Fund revenue surplus" means a situation where actual Education Fund revenues collected in a completed fiscal year exceed the estimated revenues for the Education Fund in that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the Education Fund is less than zero.

(2) There is created within the Education Fund a restricted account to be known as the Education Fund Budget Reserve Account, which is designated to receive the legislative appropriations and the surplus revenue required to be deposited into the

account by this section.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in conjunction with the completion of the annual audit by the state auditor, determines that there is an Education Fund revenue surplus, the Division of Finance shall transfer 25% of the Education Fund revenue surplus to the Education Fund Budget Reserve Account.

(ii) If the transfer of 25% of the Education Fund revenue surplus to the Education Fund Budget Reserve Account under Subsection (3)(a)(i) would cause the balance in the account to exceed 9% of Education Fund appropriations for the fiscal year in which the Education Fund revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 9% of the Education Fund appropriations for the fiscal year in which the Education Fund revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(a):

(A) before transferring from the Education Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(B) excluding any direct legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal year.

(b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if an Education Fund revenue surplus exists and if, within the last 10 years, the Legislature has appropriated any money from the Education Fund Budget Reserve Account that has not been replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall transfer up to 25% more of the Education Fund revenue surplus to the Education Fund Budget Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if any, and transfers from the Education Fund revenue surplus under this Subsection (3)(b) have replaced the appropriations from the account.

(ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to exceed 9% of Education Fund appropriations for the fiscal year in which the Education Fund revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 9% of Education Fund appropriations for the fiscal year in which the revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(b):

(A) before transferring from the Education Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(B) excluding any direct legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal year.

(c) For appropriations made by the Legislature to the Education Fund Budget Reserve Account, the Division of Finance shall treat those appropriations, unless

specified otherwise in the appropriation, as replacement funds for appropriations made from the account if funds were appropriated from the account within the past 10 years and have not yet been replaced.

(4) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists, the Division of Finance may reduce the transfer to the Education Fund Budget Reserve Account by the amount necessary to eliminate the operating deficit.

(5) The Legislature may appropriate money from the Education Fund Budget Reserve Account only to resolve an Education Fund budget deficit.

(6) Interest generated from investments of money in the Education Fund Budget Reserve Account shall be deposited into the Education Fund.

Amended by Chapter 141, 2012 General Session

63J-1-314. Deposits related to the Disaster Recovery Funding Act.

(1) As used in this section, "operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(2) Except as provided under Subsection (3), at the end of each fiscal year, the Division of Finance shall, after the transfer of General Fund revenue surplus has been made to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315, and the General Fund Budget Reserve Account, as provided in Section 63J-1-312, transfer an amount into the State Disaster Recovery Restricted Account, created in Section 53-2a-603, from the General Fund revenue surplus as defined in Section 63J-1-312, calculated by:

(a) determining the amount of General Fund revenue surplus after the transfer to the Medicaid Growth Reduction and Budget Stabilization Account under Section 63J-1-315 and the General Fund Budget Reserve Account under Section 63J-1-312;

(b) calculating an amount equal to the lesser of:

(i) 25% of the amount determined under Subsection (2)(a); or

(ii) 6% of the total of the General Fund appropriation amount for the fiscal year in which the surplus occurs; and

(c) adding to the amount calculated under Subsection (2)(b) an amount equal to the lesser of:

(i) 25% more of the amount described in Subsection (2)(a); or

(ii) the amount necessary to replace, in accordance with this Subsection (2)(c), any amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal years before the fiscal year in which the surplus occurs if:

(A) a surplus exists; and

(B) the Legislature appropriates money from the State Disaster Recovery Restricted Account that is not replaced by appropriation or as provided in this Subsection (2)(c).

(3) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists, the division shall reduce the transfer to the State Disaster Recovery Restricted Account by the amount necessary to eliminate the operating deficit.

Amended by Chapter 295, 2013 General Session

**63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account
--Transfers of Medicaid growth savings -- Base budget adjustments.**

(1) As used in this section:

(a) "Department" means the Department of Health created in Section 26-1-4.

(b) "Division" means the Division of Health Care Financing created within the department under Section 26-18-2.1.

(c) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid program expenditures, if Medicaid program expenditures are less than the Medicaid growth target.

(e) "Medicaid growth target" means Medicaid program expenditures for the previous year multiplied by 1.08.

(f) "Medicaid program" is as defined in Section 26-18-2.

(g) "Medicaid program expenditures" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during a fiscal year.

(h) "Medicaid program expenditures for the previous year" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during the fiscal year immediately preceding a fiscal year for which Medicaid program expenditures are calculated.

(i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(j) "State revenue" means revenue other than federal revenue.

(k) "State revenue expended for the Medicaid program" includes money transferred or appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the extent the money is appropriated for the Medicaid program by the Legislature.

(2) There is created within the General Fund a restricted account to be known as the Medicaid Growth Reduction and Budget Stabilization Account.

(3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a General Fund revenue surplus, the Division of Finance shall transfer an amount equal to Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and Budget Stabilization Account.

(ii) If the amount transferred is reduced to prevent an operating deficit, as provided in Subsection (6), the Legislature shall include, to the extent revenue is available, an amount equal to the reduction as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(b) If, at the end of a fiscal year, there is not a General Fund revenue surplus,

the Legislature shall include, to the extent revenue is available, an amount equal to Medicaid growth savings as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department implements the proposal developed under Section 26-18-405 to reduce the long-term growth in state expenditures for the Medicaid program, and to each fiscal year after that year.

(4) The Division of Finance shall calculate the amount to be transferred under Subsection (3):

(a) before transferring revenue from the General Fund revenue surplus to:
(i) the General Fund Budget Reserve Account under Section 63J-1-312 and;
(ii) the State Disaster Recovery Restricted Account under Section 63J-1-314;
(b) before earmarking revenue from the General Fund revenue surplus to the Industrial Assistance Account under Section 63M-1-905; and

(c) before making any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law.

(5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay additional debt service for any bonded debt authorized by the Legislature, the Division of Finance may hold back from any General Fund revenue surplus money sufficient to pay the additional debt service requirements resulting from issuance of bonded debt that was authorized by the Legislature.

(b) The Division of Finance may not spend the hold back amount for debt service under Subsection (5)(a) unless and until it is appropriated by the Legislature.

(c) If, after calculating the amount for transfer under Subsection (3), the remaining General Fund revenue surplus is insufficient to cover the hold back for debt service required by Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to cover the debt service hold back.

(d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back the General Fund balance for debt service authorized by this Subsection (5) before making any transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other designation or allocation of General Fund revenue surplus.

(6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists and that holding back earmarks to the Industrial Assistance Account under Section 63M-1-905, transfers to the State Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one of those accounts, in that order, does not eliminate the operating deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

(7) The Legislature may appropriate money from the Medicaid Growth Reduction and Budget Stabilization Account only:

(a) if Medicaid program expenditures for the fiscal year for which the appropriation is made are estimated to be 108% or more of Medicaid program expenditures for the previous year; and

(b) for the Medicaid program.

(8) The Division of Finance shall deposit interest or other earnings derived from investment of Medicaid Growth Reduction and Budget Stabilization Account money into the General Fund.

Enacted by Chapter 211, 2011 General Session

63J-1-410. Internal service funds -- Governance and review.

(1) For purposes of this section:

(a) "Agency" means a department, division, office, bureau, or other unit of state government, and includes any subdivision of an agency.

(b) "Do not replace vehicles" means a vehicle accounted for in the Division of Fleet Operations for which charges to an agency for its use do not include amounts to cover depreciation or to accumulate assets to replace the vehicle at the end of its useful life.

(c) "Internal service fund agency" means an agency that provides goods or services to other agencies of state government or to other governmental units on a capital maintenance and cost reimbursement basis, and which recovers costs through interagency billings.

(d) "Revolving loan fund" means each of the revolving loan funds defined in Section 63A-3-205.

(2) An internal service fund agency is not subject to this section with respect to its administration of a revolving loan fund.

(3) (a) An internal service fund agency may not bill another agency for services that it provides for each internal service fund operated by the agency, unless the Legislature has:

(i) reviewed and approved each internal service fund's budget request;

(ii) reviewed and approved each internal service fund's rates, fees, and other amounts that it charges those who use its services and included those rates, fees, and amounts in an appropriation act;

(iii) approved the number of full-time, permanent positions of each internal service fund as part of the annual appropriation process;

(iv) review the number of full-time equivalent contract employees of each internal service fund as part of the annual appropriation process; and

(v) appropriated to the internal service fund agency each internal service fund's estimated revenue based upon the rates and fee structure that are the basis for the estimate.

(b) If an internal service fund agency operates more than one internal service fund within the internal service fund agency, the internal service fund agency shall comply with the review and approval requirements under Subsection (3)(a) for each internal service fund.

(c) If an internal service fund agency operates an internal service fund and does

not get the approvals required under Subsection (3)(a) or (4)(b), the internal service fund agency shall rebate all rates, fees, and amounts collected to those who use the services for the rates, fees, and amounts collected that were not approved under Subsection (3)(a) or (4)(b).

(4) (a) Except as provided in Subsection (4)(b), an internal service fund agency may not charge rates, fees, and other amounts that exceed the rates, fees, and amounts established by the Legislature in the appropriations act.

(b) (i) An internal service fund agency that begins a new service or introduces a new product between annual general sessions of the Legislature may, for that service or product:

- (A) establish and charge an interim rate or amount;
- (B) acquire contract employees, if necessary; or
- (C) do a combination of Subsections (4)(b)(i)(A) and (B).

(ii) The internal service fund agency shall:

(A) submit the interim rate or amount under Subsection (4)(b)(i) to the Legislature for approval at the next annual general session; and

(B) report any change in the number of contract employees under Subsection (4)(b)(i) to the appropriate legislative appropriations subcommittee for review.

(5) The internal service fund agency budget request shall separately identify the capital needs and the related capital budget.

(6) In the fiscal year that the accounting change referred to in Subsection 51-5-6(2) is implemented by the Division of Finance, the Division of Finance shall transfer equity created by that accounting change to any internal service fund agency up to the amount needed to eliminate any long-term debt and deficit working capital in the fund.

(7) No new internal service fund agency may be established unless reviewed and approved by the Legislature.

(8) (a) Except as provided in Subsection (8)(f), an internal service fund agency may not acquire capital assets unless legislative approval for acquisition of the assets has been included in an appropriations act for the internal service fund agency.

(b) An internal service fund agency may not acquire capital assets after the transfer mandated by Subsection (6) has occurred unless the internal service fund agency has adequate working capital.

(c) The internal service fund agency shall provide working capital from the following sources in the following order:

(i) first, from operating revenues to the extent allowed by state rules and federal regulations;

(ii) second, from long-term debt, subject to the restrictions of this section; and

(iii) last, from an appropriation.

(d) (i) To eliminate negative working capital, an internal service fund agency may incur long-term debt from the General Fund or Special Revenue Funds to acquire capital assets.

(ii) The internal service fund agency shall repay all long-term debt borrowed from the General Fund or Special Revenue Funds by making regular payments over the useful life of the asset according to the asset's depreciation schedule.

(e) (i) The Division of Finance may not allow an internal service fund agency's borrowing to exceed 90% of the net book value of the agency's capital assets as of the end of the fiscal year.

(ii) If an internal service fund agency wishes to purchase authorized assets or enter into equipment leases that would increase its borrowing beyond 90% of the net book value of the agency's capital assets, the agency may purchase those assets only with money appropriated from another fund, such as the General Fund or a special revenue fund.

(f) (i) Except as provided in Subsection (8)(f)(ii), capital assets acquired through agency appropriation may not be transferred to any internal service fund agency without legislative approval.

(ii) Vehicles acquired by agencies from appropriated funds or money appropriated to agencies to be used for vehicle purchases may be transferred to the Division of Fleet Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.

(iii) Vehicles acquired with funding from sources other than state appropriations or acquired through the federal surplus property donation program may be transferred to the Division of Fleet Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.

(iv) Unless otherwise approved by the Legislature, vehicles acquired under Subsection (8)(f)(iii) shall be accounted for as "do not replace" vehicles.

(9) The Division of Finance shall adopt policies and procedures related to the accounting for assets, liabilities, equity, revenues, expenditures, and transfers of internal service funds agencies.

Amended by Chapter 236, 2014 General Session

63J-1-411. Internal service funds -- End of fiscal year -- Unused authority for capital acquisition.

(1) An internal service fund agency's authority to acquire capital assets under Subsection 63J-1-410(8)(a) shall lapse if the acquisition of the capital asset does not occur in the fiscal year in which the authorization is included in the appropriations act, unless the Legislature identifies the authority to acquire the capital asset as nonlapsing authority:

(a) for a specific one-time project and a limited period of time in the Legislature's initial appropriation to the agency; or

(b) in a supplemental appropriation in accordance with Subsection (2).

(2) (a) An internal service fund agency's authority to acquire capital assets may be retained as nonlapsing authorization if the internal service fund agency includes a one-time project's list as part of the budget request that it submits to the governor and the Legislature at the annual general session of the Legislature immediately before the end of the fiscal year in which the agency may have unused capital acquisition authority.

(b) The governor:

(i) may approve some or all of the items from an agency's one-time project's list;

and

(ii) shall identify and prioritize any approved one-time projects in the budget that the governor submits to the Legislature.

(c) The Legislature:

(i) may approve some or all of the specific items from an agency's one-time project's list as an approved capital acquisition for an agency's appropriation balance;

(ii) shall identify any authorized one-time projects in the appropriate line item appropriation; and

(iii) may prioritize one-time projects in intent language.

(3) An internal service fund agency shall submit a status report of outstanding nonlapsing authority to acquire capital assets and associated one-time projects to the Governor's Office of Management and Budget and the Legislative Fiscal Analyst's Office with the proposed budget submitted by the governor as provided under Section 63J-1-201.

Amended by Chapter 310, 2013 General Session

63J-1-504. Fees -- Adoption, procedure, and approval -- Establishing and assessing fees without legislative approval.

(1) As used in this section:

(a) (i) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(ii) "Agency" does not mean the Legislature or its committees.

(b) "Fee agency" means any agency that is authorized to establish fees.

(c) "Fee schedule" means the complete list of fees charged by a fee agency and the amount of those fees.

(2) Each fee agency shall adopt a schedule of fees assessed for services provided by the fee agency that are:

(a) reasonable, fair, and reflect the cost of services provided; and

(b) established according to a cost formula determined by the executive director of the Governor's Office of Management and Budget and the director of the Division of Finance in conjunction with the agency seeking to establish the fee.

(3) Except as provided in Subsection (6), a fee agency may not:

(a) set fees by rule; or

(b) create, change, or collect any fee unless the fee has been established according to the procedures and requirements of this section.

(4) Each fee agency that is proposing a new fee or proposing to change a fee shall:

(a) present each proposed fee at a public hearing, subject to the requirements of Title 52, Chapter 4, Open and Public Meetings Act;

(b) increase, decrease, or affirm each proposed fee based on the results of the public hearing;

(c) except as provided in Subsection (6), submit the fee schedule to the Legislature as part of the agency's annual appropriations request; and

(d) where necessary, modify the fee schedule to implement the Legislature's actions.

(5) (a) Each fee agency shall submit its fee schedule or special assessment amount to the Legislature for its approval on an annual basis.

(b) The Legislature may approve, increase or decrease and approve, or reject any fee submitted to it by a fee agency.

(6) After conducting the public hearing required by this section, a fee agency may establish and assess fees without first obtaining legislative approval if:

(a) (i) the Legislature creates a new program that is to be funded by fees to be set by the Legislature;

(ii) the new program's effective date is before the Legislature's next annual general session; and

(iii) the fee agency submits the fee schedule for the new program to the Legislature for its approval at a special session, if allowed in the governor's call, or at the next annual general session of the Legislature, whichever is sooner;

(b) the Division of Occupational and Professional licensing makes a special assessment against qualified beneficiaries under the Residence Lien Restriction and Lien Recovery Fund Act as provided in Subsection 38-11-206(1); or

(c) (i) the fee agency proposes to increase or decrease an existing fee for the purpose of adding or removing a transactional fee that is charged or assessed by a non-governmental third party but is included as part of the fee charged by the fee agency;

(ii) the amount of the increase or decrease in the fee is equal to the amount of the transactional fee charged or assessed by the non-governmental third party; and

(iii) the increased or decreased fee is submitted to the Legislature for its approval at a special session, if allowed in the governor's call, or at the next annual session of the Legislature, whichever is sooner.

(7) (a) Each fee agency that wishes to change any fee shall submit to the governor as part of the agency's annual appropriation request a list that identifies:

(i) the title or purpose of the fee;

(ii) the present amount of the fee;

(iii) the proposed new amount of the fee;

(iv) the percent that the fee will have increased if the Legislature approves the higher fee;

(v) the estimated total annual revenue change that will result from the change in the fee;

(vi) the account or fund into which the fee will be deposited; and

(vii) the reason for the change in the fee.

(b) (i) The governor may review and approve, modify and approve, or reject the fee increases.

(ii) The governor shall transmit the list required by Subsection (7)(a), with any modifications, to the Legislative Fiscal Analyst with the governor's budget recommendations.

(c) Bills approving any fee change shall be filed before the beginning of the Legislature's annual general session, if possible.

(8) (a) Except as provided in Subsection (8)(b), the School and Institutional Trust Lands Administration, established in Section 53C-1-201, is exempt from the requirements of this section.

(b) The following fees of the School and Institutional Trust Lands Administration are subject to the requirements of this section: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

Amended by Chapter 310, 2013 General Session

63J-1-505. Payment of fees prerequisite to service -- Exception.

(1) (a) State and county officers required by law to charge fees may not perform any official service unless the fees prescribed for that service are paid in advance.

(b) When the fee is paid, the officer shall perform the services required.

(c) An officer is liable upon the officer's official bond for every failure or refusal to perform an official duty when the fees are tendered.

(2) (a) Except as provided in Subsection (2)(b), no fees may be charged:

(i) to the officer's state, or any county or subdivision of the state;

(ii) to any public officer acting for the state, county, or subdivision;

(iii) in cases of habeas corpus;

(iv) in criminal causes before final judgment;

(v) for administering and certifying the oath of office;

(vi) for swearing pensioners and their witnesses; or

(vii) for filing and recording bonds of public officers.

(b) Fees may be charged for payment:

(i) of recording fees for assessment area recordings in compliance with Section 11-42-205;

(ii) of recording fees for judgments recorded in compliance with Sections 57-3-106 and 78A-7-105; and

(iii) to the state engineer under Section 73-2-14.

Amended by Chapter 189, 2014 General Session

63J-1-506. Parking fees at court buildings.

(1) State-owned or leased court facilities may not charge or collect fees for parking without prior approval by the Legislature.

(2) The Legislature may approve, increase, decrease and approve, or reject any parking fee submitted to it by the courts.

Renumbered and Amended by Chapter 183, 2009 General Session

63J-1-601. End of fiscal year -- Unexpended balances -- Funds not to be closed out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing accounts and funds -- Institutes of higher education to report

unexpended balances.

(1) As used in this section, "transaction control number" means the unique numerical identifier established by the Department of Health to track each medical claim, which indicates the date upon which the claim is entered.

(2) On or before August 31 of each fiscal year, the director of the Division of Finance shall close out to the proper fund or account all remaining unexpended and unencumbered balances of appropriations made by the Legislature, except:

(a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act as:

- (i) enterprise funds;
- (ii) internal service funds;
- (iii) trust and agency funds;
- (iv) capital projects funds;
- (v) discrete component unit funds;
- (vi) debt service funds; and
- (vii) permanent funds;

(b) those revenue collections, appropriations from a fund or account, or appropriations to a program that are designated as nonlapsing under Sections 63J-1-602.1 through 63J-1-602.5;

(c) expendable special revenue funds, unless specifically directed to close out the fund in the fund's enabling legislation;

(d) acquisition and development funds appropriated to the Division of Parks and Recreation;

(e) funds encumbered to pay purchase orders issued prior to May 1 for capital equipment if delivery is expected before June 30; and

(f) unexpended and unencumbered balances of appropriations that meet the requirements of Section 63J-1-603.

(3) (a) Liabilities and related expenses for goods and services received on or before June 30 shall be recognized as expenses due and payable from appropriations made prior to June 30.

(b) The liability and related expense shall be recognized within time periods established by the Division of Finance but shall be recognized not later than August 31.

(c) Liabilities and expenses not so recognized may be paid from regular departmental appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and unencumbered balances of appropriations for the years in which the obligation was incurred.

(d) No amounts may be transferred from an item of appropriation of any department, institution, or agency into the Capital Projects Fund or any other fund without the prior express approval of the Legislature.

(4) (a) For purposes of this chapter, claims processed under the authority of Title 26, Chapter 18, Medical Assistance Act:

(i) may not be considered a liability or expense to the state for budgetary purposes unless they are received by the Division of Health Care Financing within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) are not subject to the requirements of Subsection (3)(c).

(b) The transaction control number recorded on each claim invoice by the division is considered the date of receipt.

(5) Any balance from an appropriation to a state institution of higher education that remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by the September 1 following the close of the fiscal year.

Amended by Chapter 400, 2013 General Session

63J-1-602. Nonlapsing accounts and funds.

(1) The revenue collections, appropriations from a fund or account, and appropriations to a program that are listed in Sections 63J-1-602.1 through 63J-1-602.5 are nonlapsing.

(2) No revenue collection, appropriation from a fund or account, or appropriation to a program may be treated as nonlapsing unless:

(a) it is listed in Sections 63J-1-602.1 through 63J-1-602.5;

(b) it is designated in a condition of appropriation in the appropriations bill; or

(c) nonlapsing authority is granted under Section 63J-1-603.

(3) Each legislative appropriations subcommittee shall review the accounts and funds that have been granted nonlapsing authority under the provisions of this section or Section 63J-1-603.

Amended by Chapter 9, 2010 General Session

Amended by Chapter 10, 2010 General Session

Amended by Chapter 218, 2010 General Session

Amended by Chapter 265, 2010 General Session

Amended by Chapter 265, 2010 General Session, (Coordination Clause)

Amended by Chapter 277, 2010 General Session

Amended by Chapter 278, 2010 General Session

Amended by Chapter 287, 2010 General Session

Amended by Chapter 324, 2010 General Session

Amended by Chapter 379, 2010 General Session

Amended by Chapter 391, 2010 General Session

Amended by Chapter 399, 2010 General Session

63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.

(1) Appropriations made to the Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(8) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(9) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(10) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(11) The primary care grant program created in Section 26-10b-102.

Amended by Chapter 384, 2014 General Session

63J-1-602.2. List of nonlapsing funds and accounts -- Title 31 through Title 45.

(1) Appropriations from the Technology Development Restricted Account created in Section 31A-3-104.

(2) Appropriations from the Criminal Background Check Restricted Account created in Section 31A-3-105.

(3) Appropriations from the Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(4) Appropriations from the Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(5) Appropriations from the Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(6) Appropriations from the Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(7) Appropriations from the Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(8) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

(9) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

(10) Funding for a new program or agency that is designated as nonlapsing under Section 36-24-101.

(11) Appropriations from the Oil and Gas Conservation Account created in Section 40-6-14.5.

(12) Appropriations from the Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(13) Funds available to the Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

Amended by Chapter 338, 2013 General Session

63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.

(1) Funding for the Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(2) Appropriations made to the Division of Emergency Management from the State Disaster Recovery Restricted Account, as provided in Section 53-2a-603.

(3) Appropriations made to the Department of Public Safety from the Department of Public Safety Restricted Account, as provided in Section 53-3-106.

(4) Appropriations to the Motorcycle Rider Education Program, as provided in Section 53-3-905.

(5) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(6) Appropriations from the DNA Specimen Restricted Account created in Section 53-10-407.

(7) The Canine Body Armor Restricted Account created in Section 53-16-201.

(8) The School Readiness Restricted Account created in Section 53A-1b-104.

(9) Appropriations to the State Board of Education, as provided in Section 53A-17a-105.

(10) Money received by the State Office of Rehabilitation for the sale of certain products or services, as provided in Section 53A-24-105.

(11) Certain funds appropriated from the General Fund to the State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

(12) Funding for the Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(13) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(14) Certain surcharges on residential and business telephone numbers imposed by the Public Service Commission, as provided in Section 54-8b-10.

(15) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(16) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(17) Appropriations from the Relative Value Study Restricted Account created in Section 59-9-105.

(18) The Cigarette Tax Restricted Account created in Section 59-14-204.

Amended by Chapter 189, 2014 General Session

Amended by Chapter 304, 2014 General Session

63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through

Title 63M.

- (1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.
- (2) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.
- (3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.
- (4) Appropriations from the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.
- (5) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.
- (6) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.
- (7) Appropriations to the Division of Services for People with Disabilities, as provided in Section 62A-5-102.
- (8) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.
- (9) Certain money payable for commission expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63C-11-301.
- (10) Funds appropriated or collected for publishing the Division of Administrative Rules' publications, as provided in Section 63G-3-402.
- (11) The Immigration Act Restricted Account created in Section 63G-12-103.
- (12) Money received by the military installation development authority, as provided in Section 63H-1-504.
- (13) Appropriations to fund the Governor's Office of Economic Development's Enterprise Zone Act, as provided in Title 63M, Chapter 1, Part 4, Enterprise Zone Act.
- (14) The Motion Picture Incentive Account created in Section 63M-1-1803.

Amended by Chapter 37, 2014 General Session

Amended by Chapter 186, 2014 General Session

Amended by Chapter 189, 2014 General Session

63J-1-602.5. List of nonlapsing funds and accounts -- Title 64 and thereafter.

- (1) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).
- (2) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.
- (3) The Department of Human Resource Management user training program, as provided in Section 67-19-6.
- (4) Funds for the University of Utah Poison Control Center program, as provided in Section 69-2-5.5.
- (5) The Traffic Noise Abatement Program created in Section 72-6-112.

(6) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(7) Certain money appropriated from the Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(8) Certain funds appropriated for compensation for special prosecutors, as provided in Section 77-10a-19.

(9) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(10) A state rehabilitative employment program, as provided in Section 78A-6-210.

(11) Fees for certificate of admission created under Section 78A-9-102.

(12) The money for the Utah Geological Survey, as provided in Section 79-3-401.

(13) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

(14) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(15) The Bonneville Shoreline Trail Program created under Section 79-5-503.

Amended by Chapter 208, 2011 General Session

Amended by Chapter 303, 2011 General Session

Amended by Chapter 342, 2011 General Session

63J-1-603. Nonlapsing authority.

(1) As used in this section:

(a) (i) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(ii) "Agency" does not include those entities whose unappropriated and unencumbered balances are made nonlapsing by the operation of Subsection 63J-1-601(2).

(b) "Appropriation balance" means the unexpended and unencumbered balance of a line item appropriation made by the Legislature to an agency that exists at the end of a fiscal year.

(c) "Nonlapsing" means that an agency's appropriation balance is not closed out to the appropriate fund at the end of a fiscal year as required by Section 63J-1-601.

(d) "One-time project" means a project or program that can be completed with the appropriation balance and includes such items as employee incentive awards and bonuses, purchase of equipment, and one-time training.

(e) "One-time projects list" means:

(i) a prioritized list of one-time projects, upon which an agency would like to spend any appropriation balance; and

(ii) for each project, the maximum amount the agency is estimating for the project.

(f) "Program" means a service provided by an agency to members of the public, other agencies, or to employees of the agency.

(2) Notwithstanding the requirements of Section 63J-1-601, an agency may, by following the procedures and requirements of this section, retain and expend any appropriation balance.

(3) (a) Each agency that wishes to preserve any part or all of its appropriation balance as nonlapsing shall include a one-time projects list as part of the budget request that it submits to the governor and the Legislature at the annual general session of the Legislature immediately before the end of the fiscal year in which the agency may have an appropriation balance.

(b) An agency may not include a proposed expenditure on its one-time projects list if:

- (i) the expenditure creates a new program;
- (ii) the expenditure enhances the level of an existing program; or
- (iii) the expenditure will require a legislative appropriation in the next fiscal year.

(c) The governor:

(i) may approve some or all of the items from an agency's one-time projects list; and

(ii) shall identify and prioritize any approved one-time projects in the budget that the governor submits to the Legislature.

(4) The Legislature:

(a) may approve some or all of the specific items from an agency's one-time projects list as authorized expenditures of an agency's appropriation balance;

(b) shall identify any authorized one-time projects in the appropriate line item appropriation; and

(c) may prioritize one-time projects in intent language.

Renumbered and Amended by Chapter 183, 2009 General Session